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Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION *E-FILED - 11/17/06*

| | | |
|------------------------------|---|-----------------------------------|
| RAYMUNDO FERDIN, |) | Case No. C 06-03235 RMW |
| |) | |
| Plaintiff, |) | STIPULATION AND [] |
| |) | ORDER RE BRIEFING SCHEDULE |
| v. |) | FOR MOTION TO DISMISS |
| |) | |
| MICHAEL W. WYNNE, SECRETARY, |) | |
| DEPARTMENT OF THE AIR FORCE, |) | |
| DEPARTMENT OF THE AIR FORCE, |) | |
| |) | |
| Defendants. |) | |

The parties to this action hereby stipulate and request as follows:

Plaintiff filed this action on May 15, 2006. The Office of the United States Attorney for the Northern District of California was served on July 17, 2006. Pursuant to a request by made defendants' counsel and granted by plaintiff's counsel, defendants' response to the complaint was due September 29, 2006. Defendant filed a motion to dismiss and originally scheduled it for hearing on November 17, 2006. At the parties request, the case management conference was rescheduled to November 17, 2006 to coincide with the motion to dismiss. Defendant's counsel then informed plaintiff's counsel that she had received notice of a Ninth Circuit Court of Appeal oral argument on November 17, 2006. Accordingly, defendant renoticed the motion to dismiss

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1 for hearing on December 1, 2006, and the case management conference was also continued to
2 that date.

3 Pursuant to this Court's local rules, plaintiff's opposition to defendants' motion to
4 dismiss was due 21 days prior to the hearing. Plaintiff e-filed its opposition on Friday,
5 November 10 in the late afternoon. Due to the federal holiday on that date, defendant's counsel
6 did not receive the opposition at that time.

7 Defendant's counsel has advised plaintiff's counsel that, on Monday, November 13, the
8 internet system for defendant's counsel's office was down for much of the day. Accordingly, she
9 could not access plaintiff's e-filed opposition until mid-afternoon that date. In addition, as
10 previously discussed, defendant's counsel has a Ninth Circuit argument on Friday, November 17.
11 Due to the work involved in preparing for that argument, the delay in receiving plaintiff's
12 opposition was particularly critical.

13 Defendant's counsel requested and plaintiff's counsel has agreed to a two court day
14 extension for defendant's reply to the motion to dismiss, subject to the Court's concurrence. If
15 the Court is agreeable, the parties request that the hearing date remain December 1, 2006. If the
16 Court prefers additional time due to the delay in receipt of the reply memorandum, the Court may
17 reschedule the hearing and the related case management conference.

18 Respectfully submitted,

19 DATED: November 16, 2006

KEVIN V. RYAN
United States Attorney

21
22 /s/
CLAIRE T. CORMIER
Assistant United States Attorney

24 WOODSON & ALLEN, LLP

26 DATED: November 16, 2006

27 /s/
WILLIAM N. WOODSON, III
Attorney for Plaintiff

ORDER

Pursuant to the stipulation of the parties and good cause appearing, defendant's reply memorandum in support of its motion to dismiss is due no later than Tuesday, November 21, 2006. The hearing on the motion will take place on December 15, 2006 at 9:00 a.m., and the case management conference will take place concurrently with the motion hearing.

IT IS SO ORDERED.

DATE: 11/17/06

/s/ Ronald M. Whyte

Ronald M. Whyte
United States District Judge